



1636/8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#13

Applicant : George Q. Daley et al.

Art Unit : 1636

Serial No. : 09/982,223

Examiner : David A. Lambertson

Filed : October 18, 2001

Title : EXPRESSION VECTORS AND USES THEREOF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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JUL 16 2003
TECH CENTER 1600/2900RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the action mailed April 9, 2003, applicant elects the invention of Group II drawn to the embodiment of a viral vector for the recombinant production of a protein comprising a packaging sequence with at least two codons altered to reduce the occurrence of fusion proteins and a proviral recovery sequence, with traverse.

Applicant respectfully traverses the restriction under 35 U.S.C. § 121. Like the elected claims of Group II, the claims in Group I are directed to a viral vector for the recombinant production of a protein which comprises a packaging sequence with at least two codons altered to reduce the occurrence of fusion proteins. The only difference the Examiner has cited between the claims of Group I and the claims of Group II is that the claims of Group II further recite that the vector includes a proviral recovery sequence. Therefore, the Examiner asserts, "as a result the vectors comprise different nucleic acid sequences and thus have different structures and functions."

The Examiner's rationale for restricting these claims into two groups is flawed. Under the Examiner's reasoning, every time a claim recites that the vector comprises a further element, that claim would be considered a different invention. It is hard to understand how the Examiner can assert that the presence of a proviral recovery sequence in the vector requires that the claims

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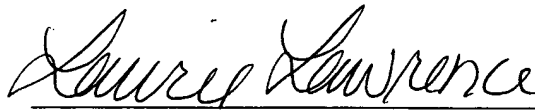
Attorney's Docket No.: 13086-002001 / WHI 00-18 US

of group II be restricted from the claims of group I, when the Examiner does not require that, for example, claim 24, which recites that the vector further comprise a bacterial origin of replication be restricted from the rest of the claims of group II that do not require the presence of this element. Instead, the claims of group II are drawn to a narrower embodiment of the vectors of group II. There would be no undue burden on the Examiner to search the claims of group I with the claims of group II. Therefore, Applicant respectfully requests that the Examiner withdraw the restriction requirement.

Enclosed is a Petition for Two-Month Extension of Time and a check for \$410 for the required fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 7/3/03



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